UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

REGINA C. FILANNINO-RESTIFO, on Behalf of Herself and All Others Similarly Situated, **Plaintiff,** **-vs.-** **TD BANK, N.A,** **Defendant.**	**Case No.: 16-2374 (JBS-JS)**
DAVID DIAZ and RYAN FRANCO, Individually and on Behalf of All Others Similarly Situated, **Plaintiffs,** **-vs.-** **TD BANK, N.A,** **Defendant.**	**Case No.: 16-2395 (JBS-JS)**
NONA LUCE, on Behalf of Herself and All Others Similarly Situated, **Plaintiff,** **-vs.-** **TD BANK, N.A,** **Defendant.**	**Case No.: 16-2621 (JBS-JS)**
DAVID SPECTOR, on Behalf of Himself and All Others Similarly Situated, **Plaintiff,** **-vs.-** **TD BANK, N.A,** **Defendant.**	**Case No.: 16-2682 (JBS-JS)**

DAVID McENERNEY, on Behalf of Himself and All Others Similarly Situated, **Plaintiff,** **-vs.-** **TD BANK, N.A,** **Defendant.**	**Case No.: 16-2618 (JBS-JS)**
CHRISTINE KRULAN, Individually and on Behalf of All Other Persons Similarly Situated, **Plaintiffs,** **-vs.-** **TD BANK, N.A,** **Defendant.**	**Case No.: 16-02919 (JBS-JS)**
JUAN CARLOS MACIAS, Individually and on Behalf of All Other Persons Similarly Situated, **Plaintiffs,** **-vs.-** **TD BANK, N.A,** **Defendant.**	**Case No.: 16-03420 (JBS-JS)**
JEFFREY FEINMAN, Individually and on Behalf of All Other Persons Similarly Situated, **Plaintiffs,** **-vs.-** **TD BANK, N.A,** **Defendant.**	**Case No.: 16-2621 (JBS-JS)**

ORDER PRELIMINARILY CERTIFYING SETTLEMENT CLASSES, GRANTING PRELIMINARY APPROVAL OF SETTLEMENT, AND APPROVING CLASS NOTICE

THIS MATTER having been opened to the Court by Interim Class Counsel, on behalf of Regina C. Filannino-Restifo, David Diaz, Ryan Franco, Nona Luce, David Spector, David McEnerney, Christine Krulan, Juan Carlos Macias, Crossroad Foundation, Andrew Sobczak, Alexis Mullen, Tracy Olechowski and Jeffrey Feinman (the "Representative Plaintiffs") by way of their unopposed motion for preliminary approval of their proposed settlement with TD Bank, N.A. ("TD Bank" and, with Representative Plaintiffs, the "Parties") in the above Actions;

WHEREAS, the Court having reviewed and considered the motion for preliminary approval and supporting materials filed by Interim Class Counsel, and having also reviewed the court file in these Actions; and

WHEREAS, this Court has fully considered the record and the requirements of law; and good cause appearing;

IT IS ON THIS ___ day of__________, 2017

ORDERED that the settlement (including all terms of the Settlement Agreement and Release, dated May 20, 2017, between Representative Plaintiffs and TD Bank, and exhibits thereto) (the "Agreement") is hereby PRELIMINARILY APPROVED.

The Court further finds and orders as follows[1]:

1. The Court has subject matter jurisdiction under 28 U.S.C. § 1332, and venue is proper in this district.

2. The Court has personal jurisdiction over the Representative Plaintiffs, Class Members, and TD Bank.

3. The Agreement appears to be the product of serious, informed, non-collusive, and good faith negotiations between the parties. The Agreement falls well within the range of reason. The Agreement has no obvious deficiencies. The Agreement does not unreasonably favor the Representative Plaintiffs or any segment of the Class.

4. Because the Agreement meets the standards for preliminary approval, the Court preliminarily approves all terms of the Agreement and all of its exhibits.

5. The Court finds, for settlement purposes only, that all requirements of Fed. R. Civ. P. 23(a) and (b)(3) have been satisfied, including that the proposed settlement class is currently and readily ascertainable based on objective criteria. The Court certifies the Settlement Class, as follows:

> All persons in the United States who, between April 11, 2010 and Preliminary Approval, used a TD Bank Penny Arcade machine to exchange coins for a credit to a TD Bank Account or for cash. Excluded from the Settlement

[1] To the extent not otherwise defined herein, all defined terms in this Order shall have the meaning assigned in the Agreement.

Class are all current TD Bank employees, officers and directors, counsel for TD Bank, Class Counsel, the judges presiding over the Actions, and the immediate family members of such judges.

6. The Court conditionally certifies the proposed Class, and finds that the requirements of Rule 23(a) are satisfied, for settlement purposes only, as follows:

a) Pursuant to Fed. R. Civ. P. 23(a)(l), the members of the Class are so numerous that joinder of all members is impracticable.

b) Pursuant to Fed. R. Civ. P. 23(a)(2) and 23(c)(l)(B), the Court determines that there are common issues of law and fact for the Class as follows:

1) Whether all of TD Bank’s Penny Arcades shortchanged customers;

2) When TD Bank first became aware (or should have become aware) that its Penny Arcades were shortchanging customers;

3) Whether the Penny Arcades’ shortchanging customers is a violation of the New Jersey Consumer Fraud Act;

4) Whether TD Bank knew or should have known that its Penny Arcades were shortchanging customers.

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c) The Court hereby appoints the following Representative Plaintiffs as Class Representatives:

Regina C. Filannino-Restifo, David Diaz, Ryan Franco, Nona Luce, David Spector, David McEnerney, Christine Krulan, Juan Carlos Macias, Crossroad Foundation, Andrew Sobczak, Alexis Mullen, Tracy Olechowski and Jeffrey Feinman

d) Pursuant to Fed. R. Civ. P. 23(a)(3), the Representative Plaintiffs have claims that are typical of the claims of the class, because their claims are based on the same allegedly unlawful conduct by TD that is the basis of the claims by other class members, and their allegations against TD are based on the same legal theories as the allegations of other class members.

e) Pursuant to Fed. R. Civ. P. 23(a)(4), the Representative Plaintiffs will fairly and adequately protect and represent the interests of all members of the Class, and the interests of the Representative Plaintiffs are not antagonistic to those of the Class. Furthermore, the Representative Plaintiffs are represented by counsel who is experienced and competent in the prosecution of complex class action litigation.

7. The Court further finds, for settlement purposes only, that the requirements of Rule 23(b)(3) are satisfied, as follows:

a) Questions of law and fact common to the members of the Class, as described above, predominate over questions that may affect only individual members;

b) A class action is superior to all other available methods for the fair and efficient adjudication of this controversy; and

c) The class is currently and readily ascertainable based on objective criteria. The proposed method for ascertaining class members is reliable, administratively feasible, and permits TD to challenge the evidence used to prove class membership.

8. The Court finds that the content of the Mailed Notice, Publication Notice, and Long-Form Notice on the Settlement Website attached to the Agreement as Exhibits 1, 2 and 3, satisfy the requirements of Fed. R. Civ. P. 23(c)(2), Fed. R. Civ. P. 23(e)(l) and due process, and accordingly approves each such Notice.

9. This Court further approves the proposed methods for giving notice of the settlement to Class Members and processing Claims filed by Class Members, as reflected in the Agreement and the motion for preliminary approval, including the appointment of Garden City Group, LLC as Settlement Administrator. The Court has reviewed the notices attached as exhibits to the Agreement, and

the notice procedures, and finds that the Class Members will receive the best notice practicable under the circumstances. The Court specifically approves the Parties' proposal to use reasonable diligence to identify potential class members and an associated address in TD Bank's records, and their proposal to direct the Notice Administrator to use this information to mail class members notice via first class mail. The Court also orders payment of notice costs as provided in the Agreement. The Court finds that these procedures, carried out with reasonable diligence, will constitute the best notice practicable under the circumstances and will satisfy the requirements of Fed. R. Civ. P. 23(c)(2), Fed. R. Civ. P. 23(e)(l), and due process.

10. The Court hereby appoints Bruce H. Nagel of Nagel Rice, LLP ("Nagel"), Michael Criden of Criden & Love, P.A. ("Criden"), Jeffrey Smith of Wolf Haldenstein Adler Freeman & Herz, LLP ("Wolf"), and John Radice of Radice Law Firm ("Radice") as Class Counsel pursuant to Rule 23(g) and preliminarily finds that they fairly and adequately represent the interests of the Class.

11. The Court directs that pursuant to Fed. R. Civ. P. 23(e)(2) a hearing will be held on _______________, to consider final approval of the Agreement (the "Final Approval Hearing" or "Fairness Hearing") including, but not limited to, the following issues: (a) whether the Class should be certified, for settlement purposes only; (b) the fairness, reasonableness, and adequacy of

the settlement; (c) Class Counsel's application for an award of attorneys' fees and costs; and (d) approval of an award of service payments to the Representative Plaintiffs. The Final Approval Hearing may be adjourned by the Court and the Court may address the matters set out above, including final approval of the Agreement, without further notice to the Class other than notice that may be posted at the Court and on the Court's and Settlement Administrator's websites.

12. Persons wishing to object to the proposed Settlement and/or be heard at the Fairness Hearing shall follow the following procedures:

a. Objections to the Settlement or to the application for Attorneys' Fees and Service Awards must be electronically filed with the Court, or mailed to the Clerk of the Court, with a copy to Class Counsel and TD Bank's counsel. For an objection to be considered by the Court the objection must be: (a) electronically filed by the Objection Deadline; or (b) mailed first-class postage prepaid to the Clerk of Court, Class Counsel, and TD Bank's counsel, at the addresses listed in the Notice, and postmarked by no later than the Objection Deadline, as specified in the Notice.

b. For an objection to be considered by the Court, the objection must also set forth:

1. that it relates to the Actions, for which it shall be deemed sufficient to identify any of the Actions;

2. the objector's full name, address, email address, and telephone number;

3. an explanation of the basis upon which the objector claims to be a Settlement Class Member;

4. all grounds for the objection, accompanied by any legal support for the objection;

5. the identity of all counsel who represent the objector, including any former or current counsel who may be entitled to compensation for any reason related to the objection to the Settlement, the application for Attorneys' Fees, or the application for Service Awards;

6. the identity of all counsel representing the objector who will appear at the Final Approval Hearing;

7. a list of any persons who will be called to testify at the Final Approval Hearing in support of the objection;

8. a statement confirming whether the objector intends to personally appear and/or testify at the Final Approval Hearing; and

9. the objector's signature (an attorney's signature is not sufficient).

13. Members of the Class who elect not to participate in the settlement ("Opt-Outs") must submit a written request for exclusion that is postmarked no later than _______, 201_. The written notification must include the individual's name and address; a statement that he or she wants to be excluded from the Settlement in *Filannino-Restifo v. TD Bank, N.A.*, No. 16-cv-2374; *Diaz v. TD Bank, N.A.*, No. 16-cv-2395; *Luce v. TD Bank, N.A.*, No. 16-cv-2621; *Spector v. TD Bank, N.A.*, No. 16-cv-2682; *McEnerney v. TD Bank, N.A.*, No. 16-cv-2918; *Krulan v. TD Bank, N.A.*, No. 16-cv-2919; *Macias v. TD Bank, N.A.*, No. 16-cv-3420; or *Feinman v. TD Bank, N.A.*, No. 16-cv-3435; and the individual's signature. The Settlement Administrator shall provide the Parties with copies of all completed opt-out notifications, and a final list of all who have timely and validly excluded themselves from the Settlement Class, which Class Counsel shall move to file under seal with the Court no later than 10 days prior to the Final Approval Hearing.

14. Any member of the Class failing to properly and timely mail such a written notice of exclusion shall be automatically included in the Classes and shall be bound by all the terms and provisions of the Agreement and the settlement, including the release, and Order of Final Judgment.

15. The following are the deadlines for the following events:

EVENT	DATE
Notice of Class Action Settlement Mailed and Posted on Internet ("Notice Deadline")(60 days from the date Preliminary Approval of the Settlement is granted)	
Notice of Class Action Settlement (CAFA Notice)	June 1, 2017
Postmark/Filing Deadline for Requests for Exclusions, and Objections ("Objection Deadline")(60 days from Notice Deadline)	
Service/Filing Notice of Appearance at Fairness Hearing (60 days from Notice Deadline)	
Affidavit of Compliance with Notice Requirements and Report of Exclusions and Objections (14 days prior to the date of the Fairness Hearing)	
Filing Motion for Final Approval, Attorney Fees, Reimbursement of Expenses, and Service Awards To be Filed by Class Counsel (No later than 21 days prior to Objection Deadline)	
Fairness Hearing(at least 180 days from date of Preliminary Approval of Settlement is granted)	

16. In the event that the settlement does not become effective for any reason, this Preliminary Approval Order and Judgment shall be rendered null and shall be vacated, and all

orders entered in connection herewith shall be null and void to the extent provided by and in accordance with the Agreement. If the settlement does not become effective, TD Bank and any other Releasing Parties (as defined in the Agreement) shall have retained any and all of their current defenses and arguments thereto (including but not limited to arguments that the requirements of Fed. R. Civ. P. 23(a) and (b)(3) are not satisfied for purposes of continued litigation). These Actions shall thereupon revert immediately to their respective procedural and substantive status prior to the date of execution of the Agreement and shall proceed as if the Agreement and all other related orders and papers had not been executed.

17. Nothing in this Preliminary Approval Order and Judgment, the Agreement, or any documents or statements related thereto, is or shall be deemed or construed to be an admission or evidence of any violation of any statute or law or of any liability or wrongdoing by TD Bank, or an admission of the propriety of class certification for any purposes other than for purposes of the current proposed settlement and Agreement.

18. All other proceedings in the Actions are hereby stayed until such time as the Court renders a final decision regarding approval of the proposed settlement. No discovery with regard to any of these Actions, or with respect to this settlement, shall be permitted other than as may be directed by the Court upon a proper

showing by the party seeking such discovery by motion properly noticed and served in accordance with this Court's Local Rules. In addition, pending a determination on final approval of the settlement, all Class Members are hereby barred and enjoined from commencing or prosecuting any action involving any Released Claims (as defined in the Agreement).

19. The Court shall retain continuing jurisdiction over the Actions, the Parties and the Class, and the administration, enforcement, and interpretation of the Agreement. Any disputes or controversies arising with respect to the Agreement shall be presented by motion to the Court, provided, however, that nothing in this paragraph shall interfere with the Parties' rights under Paragraphs 16 and 18 of this Order.

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JEROME B. SIMANDLE, U.S.D.J.